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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,412	05/30/2000	Henry H. Jenkins	7947	8695

7590 03/08/2007
Woodling, Krost and Rust
9213 Chillicothe Road
Kirtland, OH 44094

EXAMINER

FLORES SANCHEZ, OMAR

ART UNIT	PAPER NUMBER
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3724

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/580,412

Applicant(s)

JENKINS, HENRY H.

Examiner

Omar Flores-Sánchez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the appeal brief filed on 07/20/05, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Objections

2. Claims 1, 7 and 11 are objected to because of the following informalities: "a steel rule in said slots" should be --a plurality of steel rules in said slots--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 19 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 19 and 25 recite the limitation "slots". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 14, 15, 17, 20, 21 and 23 are rejected under 35 U.S.C 102(b) as being anticipated by Shinnick (1635964).

Shinnick discloses (Fig. I-XI) the invention including a steel rule/metal member *C* and *S*, a cutting edge is defined by a generally triangular shape configuration (see Fig. IX), a bottom portion, first and second end portions extending in a first and a second directions (see Fig. VIII), and a flat configuration (see Fig. IX).

7. Claims 20-22 and 23 are rejected under 35 U.S.C 102(b) as being anticipated by Svendsen et al. (3464293).

Svendsen et al. discloses (Fig. 1-21) the invention including a steel rule/metal member (Fig. 20), a first end portion extending at angle 44 (see Fig. 14-17), a cutting edge is defined by a

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generally triangular shape configuration (see Fig. 4) and the end portion formed at approximately a 45 degree angle (the end portion having a range between 10 to 90 degrees angle, see col. 3, lines 59-67).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinnick (1635964) in view of Sandford (6085625) and Svendsen et al. (3464293).

Shinnick discloses (Fig. 1-6) the invention substantially as claimed including a top board 1, 11 and *F*, a plurality of rule slots 12, a steel rule/metal member *C* and *S*, a cutting edge is defined by a generally triangular shape configuration (see Fig. IX), slots (see Fig. IV) formed from the bottom portion of the rule, and first and second end portions (see Fig. I). Shinnick does not show a metal plate. However, Sandford teaches the use of a metal plate 52 for the purpose of increasing the stability of the rule die. It would have been obvious to one of having ordinary skill in the art at the time of the invention was made to have modified Shinnick's device by providing the metal plate as taught by Sandford in order to obtain a device that improves the stability of the rule die.

Shinnick doesn't show a first portion extending at approximately a 45 degree angle, and the first end portion of the steel rule engaging the next adjacent steel rule to form 45 degree angled corner. However, Svendsen et al. teaches an end portion having a range between 10 to 90 degrees angle (see col. 3, lines 59-67) for the purpose of creating the desired shape of cut. It would have been obvious to one of having ordinary skill in the art at the time of the invention was made to have modified Shinnick's device by providing the approximately 45 degree angle in order to create the desired shape of cut.

10. Claims 16 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinnick (1635964) in view of Svendsen et al. (3464293).

Shinnick discloses the invention substantially as claimed except for end portions formed at approximately 45degree angle. However, Svendsen et al. teaches an end portion having a range between 10 to 90 degrees angle for the purpose of creating the desired shape of cut. It would have been obvious to one of having ordinary skill in the art at the time of the invention was made to have modified Shinnick's device by providing the approximately 45 degree angle in order to create the desired shape of cut.

11. Claims 18, 19, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinnick (1635964) in view of Simms et al. (3335628).

Shinnick discloses the invention substantially as claimed including slots (see Fig. IV). Shinnick doesn't show a terminating end of each of the first and second end portions formed on an angle to the vertical axis. However, Simms et al. teach the use of a terminating end of each of

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the first and second end portions (21 and 35) formed on an angle to the vertical axis for the purpose of facilitating the formation of strong and accurate joint. It would have been obvious to one of having ordinary skill in the art at the time of the invention was made to have modified Shinnick's steel rule by providing the terminating end of each of the first and second end portions formed on an angle to the vertical axis as taught by Simms et al. in order to facilitate the formation of strong and accurate joint and eliminate the gap between the cutting edges of the joint to avoid incomplete cut of the work piece.

12. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Svendsen et al. (3464293) in view of Simms et al. (3335628).

Svendsen discloses the invention substantially as claimed except for a terminating end of each of the first and second end portions formed on angle to the vertical axis. However, Simms et al. teach the use of a terminating end of each of the first and second end portions formed on angle to the vertical axis for the purpose of facilitating the formation of strong and accurate joint. It would have been obvious to one of having ordinary skill in the art at the time of the invention was made to have modified the steel rule of Svendsen et al. by providing the terminating end of each of the first and second end portions formed on angle to the vertical axis as taught by Simms et al. in order to facilitate the formation of strong and accurate joint and eliminate the gap between the cutting edges of the joint to avoid incomplete cut of the work piece.

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13. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Svendsen et al. (3464293) in view of Simms et al. (3335628) as applied to claims 20, 23 and 24 above, and further in view of Brayton et al. (5943935).

The modified device of Svendsen discloses the invention substantially as claimed except for slots formed at the bottom of the steel rule. However, Brayton et al. teaches the use of slots formed at the bottom of the steel rule 36 for the purpose of having a better support of the steel rule. It would have been obvious to one of having ordinary skill in the art at the time of the invention was made to have modified the steel rule of Svendsen et al. by providing the slots as taught by Brayton et al. in order to obtain a better support of the steel rule.

Allowable Subject Matter

14. Claims 1-10 are allowed.

Response to Arguments

15. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 571-272-4507. The examiner can normally be reached on 8:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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March 5, 2007



BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER